

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY TEHRAN IMMEDIATE

C O N F I D E N T I A L STATE 128397

EXDIS

FOLLOWING REPEAT STATE 128397 ACTION BONN 25 MAY 76 AND
REPEATED TO SECRETARY 25 MAY 76.

QUOTE

C O N F I D E N T I A L STATE 128397

EXDIS

E.O. 11652: GDS

TAGS:PARM, TECH, GW IR

SUBJECT: US COMMENTS ON PROPOSED FRG-IRAN NUCLEAR
COOPERATION AGREEMENT

ON MAY 24 PM DIRECTOR VEST HANDED TO FRG MINISTER HANSEN
FOLLOWING US COMMENTS ON DRAFT FRG/IRAN NUCLEAR
ASSISTANCE AGREEMENT:

"US COMMENTS ON PROPOSED FRG-IRAN NUCLEAR COOPERATION
AGREEMENT

1. THE U.S. IS CONCERNED ABOUT YOUR PROPOSED DRAFT NUCLEAR
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AGREEMENT WITH IRAN, SINCE IT AUTHORIZES FRG ASSISTANCE
ACROSS THE COMPLETE NUCLEAR FUEL CYCLE UNDER CERTAIN CON-
DITIONS AND SUBJECT TO SPECIFIC CONTRACTUAL UNDERTAKINGS.
THE DRAFT AGREEMENT DOES REFLECT CERTAIN DESIRABLE ELEMENTS

OF CONSTRAINT WHICH SHOW A CLOSER US-GERMAN APPROACH. HOWEVER, WE UNDERSTAND THAT NEITHER THE FEDERAL REPUBLIC NOR IRAN CONTEMPLATES THAT ENRICHMENT OR REPROCESSING TRANSFERS WOULD TAKE PLACE FOR AT LEAST 10-15 YEARS. IN THOSE CIRCUMSTANCES, WE BELIEVE THAT EVEN THE MOST GENERAL COMMITMENTS CONCERNING THE CHARACTER AND CONDITIONS OF SUCH ASSISTANCE ARE PREMATURE AND SHOULD BE DEFERRED. WE FULLY RECOGNIZE THE FEDERAL REPUBLIC'S LEGITIMATE INTEREST IN COMPETING FOR THE IRANIAN NUCLEAR MARKET; WE DO NOT BELIEVE THAT THIS SHOULD REQUIRE COMMITMENTS IN PRINCIPLE AT THIS TIME TO SUPPLY REPROCESSING AND ENRICHMENT TECHNOLOGY, HOWEVER CONDITIONED. WE CANNOT THEREFORE ENDORSE THE DRAFT AGREEMENT.

2. IF YOU SHOULD PROCEED WITH THE AGREEMENT DESPITE OUR POSITION, WE HAVE A NUMBER OF SUGGESTIONS CONCERNING THE DRAFT TEXT WHICH WE WOULD ASK YOU TO CONSIDER IN THE LIGHT OF THE UNDERSTANDINGS AND DISCUSSIONS BETWEEN OUR STAFFS. WE OFFER THESE COMMENTS WITHOUT PREJUDICE TO OUR BASIC POSITION THAT THE AGREEMENT SHOULD NOT AT THIS TIME AUTHORIZE FUTURE COOPERATION IN SENSITIVE AREAS SUCH AS REPROCESSING AND ENRICHMENT.

3. AS NOTED ABOVE, WE UNDERSTAND THAT UNDER YOUR PROPOSED UMBRELLA AGREEMENT YOU DO NOT INTEND TO TRANSFER REPROCESSING TECHNOLOGY (WHICH WE ASSUME INCLUDES ASSISTANCE IN TRAINING PROGRAMS, LABORATORY FACILITIES, OR PILOT-SCALE FACILITIES) UNDER ANY CONDITIONS FOR 10 TO 15 YEARS AND THEN ONLY IF SUCH PLANTS ARE CONSIDERED BY BOTH PARTIES TO BE ECONOMICALLY JUSTIFIED. WE FURTHER UNDERSTAND THAT, ALTHOUGH ALLOWED WITHIN THE SCOPE OF THE PROPOSED AGREEMENT, YOU DO NOT ANTICIPATE TRANSFER OF ENRICHMENT TECHNOLOGY FOR THE FORESEEABLE FUTURE. WE WOULD WELCOME ASSURANCES FROM YOU TO CONFIRM THESE UNDERSTANDINGS.

4. WE NOTE THAT YOUR PROPOSED AGREEMENT CALLS FOR PRO-CONFIDENTIAL

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VISION OF FRG ASSISTANCE IN ANY ASPECT OF THE FUEL CYCLE, INCLUDING A POSSIBLE REPROCESSING FACILITY, TO BE CONSIDERED AS "NECESSARY FOR CARRYING OUT THE NUCLEAR POWER PROGRAM" OF IRAN. WE UNDERSTAND THAT UNDER THIS FORMULATION, THE FRG BELIEVES THERE ARE NO ECONOMIC OR OTHER FACTORS WHICH COULD JUSTIFY A NEAR-TERM DECISION TO SUPPLY A REPROCESSING OR ENRICHMENT PLANT TO IRAN. TO AVOID ANY MISUNDERSTANDING ON THE PART OF IRAN, WE BELIEVE IT WOULD BE HIGHLY DESIRABLE IF THIS CONCEPT WERE EXPANDED IN THE DRAFT LETTER OF AGREEMENT TO CAPTURE THE IDEAS EXPRESSED TO US BY THE FRG DELEGATION THAT (1) SUCH REPROCESSING TECHNOLOGY TRANSFER IS NOT A NEAR-TERM DECISION BUT RATHER MORE IN THE 1990 TIME FRAME,

THAT (2) IT WOULD NOT OCCUR UNTIL AFTER A JOINT DETERMINATION BY IRAN AND THE FRG ON THE ECONOMIC NEED TO REPROCESS THE FUEL AS WELL AS JOINT CONSIDERATIONS OF ALTERNATIVES SUCH AS USE OF EXISTING SERVICES AND THAT (3) NO ENRICHMENT TECHNOLOGY TRANSFERS ARE PRESENTLY ENVISIONED.

5. WE WELCOME THE PROVISIONS AND UNDERSTANDINGS RELATED TO POSSIBLE FUTURE TRANSFERS OF REPROCESSING OR ENRICHING WHICH PROVIDE THAT:

--ASSISTANCE WHICH THE FRG MAY RENDER TO IRAN IN ESTABLISHING A REPROCESSING OR ENRICHMENT PLANT WOULD ENABLE AT A MINIMUM FRG PARTICIPATION IN MANAGEMENT AND PLANT OPERATIONS, WITH THE POSSIBILITY OF EVENTUAL EXTENSION OF SUCH A BINATIONAL ARRANGEMENT TO INCLUDE REGIONAL OR INTERNATIONAL PARTICIPATION. IN THIS CONNECTION WE NOTE THAT THE PROPOSED UNDERSTANDINGS ALLOW THE FRG TO REQUIRE

ITS PARTICIPATION IN ANY ASSISTED REPROCESSING ENTERPRISE, AND WE UNDERSTAND IT IS THE FIRM INTENTION OF THE FRG TO EXERCISE THIS RIGHT. WE WOULD WELCOME YOUR CONFIRMATION THAT THE FRG WILL PARTICIPATE, ALONG THE LINES PROVIDED FOR, IN ANY SUCH ENTERPRISE.

--CONSENT BY THE FRG WOULD BE REQUIRED FOR THE DISPOSITION OF MATERIALS RESULTING FROM THE OPERATION OF A GERMAN-SUPPLIED REPROCESSING PLANT NOT RELATED TO NORMAL CONFIDENTIAL

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FUEL PRODUCTION FOR LWRS OR THE TREATMENT OF RADIOACTIVE WASTE, INCLUDING LONG-TERM STORAGE OF FISSILE MATERIALS.

6. AS REFLECTED IN OUR DISCUSSIONS, HOWEVER, THE U.S WOULD SUGGEST THAT THE FRG CONSIDER INCORPORATING THREE ADDITIONAL ELEMENTS INTO ITS DRAFT AGREEMENT WHICH WOULD BE CONSISTENT WITH THE THRUST OF THE EXISTING FRG DRAFT AND WOULD MAKE THE US AND FRG APPROACHES MORE COMPATIBLE:

(A) HAVE THE FRG CONTROLS OVER IRANIAN REPROCESSING FLOW FROM THE TRANSFER OF FRG REACTORS OR FUEL AS WELL AS FROM THE PROVISION OF REPROCESSING TECHNOLOGY (ALONG THE LINES OF THE CONDITIONS ELABORATED IN THE US-IRAN DRAFT). AS THE FRG APPRECIATES, THE CONTROLS THAT THE U.S. IS SEEKING OVER IRANIAN REPROCESSING DERIVE FROM THE TRANSFER OF U.S. REACTORS OR FUEL. HOWEVER, UNDER THE FRG APPROACH, THE CONSTRAINTS ON REPROCESSING WOULD BECOME OPERATIVE ONLY IF AND WHEN THE FRG ASSISTS IN THE CONSTRUCTION OF A REPROCESSING FACILITY, AND PENDING SUCH A DEVELOPMENT, THE FRG WOULD NOT SEEK TO HAVE ANY SPECIAL CONSTRAINTS APPLY TO THE PLUTONIUM PRODUCED IN THE REACTORS OR FUEL IT SUPPLIES. IF THE FRG ARRANGED TO HAVE ITS CONTROLS

DERIVE FROM THE TRANSFER OF ITS REACTORS AND FUEL, THIS WOULD PROVIDE A BASIS FOR THE FRG TO SEEK A MUTUAL CONSENT PROVISION WITH RESPECT TO THE CONDITIONS UNDER WHICH IRAN COULD REPROCESS FUEL SUPPLIED BY FRG OR IRRADIATED IN FRG-SUPPLIED REACTORS. SUCH A MUTUAL CONSENT PROVISION COULD BE ACCOMPANIED BY POLITICAL ASSURANCES FROM IRAN THAT, SHOULD IRAN WISH TO REPROCESS FUEL SUPPLIED BY THE FRG OR PRODUCED IN AN FRG REACTOR, IT WOULD ENDEAVOR TO DO SO ON A MULTINATIONAL OR BINATIONAL (I.E., FRG-IRAN) BASIS WHEN ECONOMICALLY JUSTIFIED, REGARDLESS OF THE SOURCE OF THE TECHNOLOGY. WE BELIEVE THAT AN APPROACH OF THIS KIND WOULD COMPLEMENT THE PROPOSED PROVISIONS AFFECTING POSSIBLE FRG TRANSFER OF REPROCESSING TECHNOLOGY, AND WOULD REDUCE DISPARITIES IN OUR RESPECTIVE SAFEGUARD ARRANGEMENTS WITH IRAN.

(B) EXTEND THE REQUIREMENT FOR FRG PARTICIPATION IN A POSSIBLE GERMAN-SUPPLIED REPROCESSING PLANT TO INCLUDE COMPARABLE PARTICIPATION IN ANY ASSOCIATED PLUTONIUM-CONFIDENTIAL

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HANDLING FACILITY (CONVERSION, FABRICATION AND STORAGE FACILITIES). THE AMOUNT OF PLUTONIUM CONTAINED IN THESE LATTER FACILITIES POSES PROLIFERATION DANGERS OF THE MAGNITUDE OF THOSE CONCERNED WITH A REPROCESSING PLANT, AND, IN OUR OPINION, SHOULD BE TREATED SIMILARLY BY INTRODUCING THE BINATIONAL APPROACH. FURTHERMORE, THIS EXTENDED PARTICIPATION WOULD BE CONSISTENT WITH THE BROADER CONCEPT OF MULTINATIONAL FUEL CYCLE CENTERS UNDER STUDY BY THE IAEA AND REFERRED TO IN THE DRAFT FRG ACCORDS. IF THIS WERE NOT ACHIEVABLE, WE URGE THAT AS A MINIMUM YOU SEEK TO REQUIRE MUTUAL AGREEMENT CONCERNING THE CONDITIONS FOR ALL CONVERSION, FABRICATION AND STORAGE OF PLUTONIUM RESULTING FROM THE OPERATION OF ANY FRG-SUPPLIED REPROCESSING PLANT. AS A FINAL POINT, YOU SHOULD BE AWARE THAT, IN THE ABSENCE OF ANY MULTINATIONAL OR BINATIONAL ARRANGEMENTS COVERING STORAGE/ FABRICATION OF MATERIAL PRODUCED BY A PARTICULAR REPROCESSING PLANT, THE TERMS WE ARE SEEKING IN THE US-IRAN AGREEMENT NOW BEING NEGOTIATED WOULD DISCOURAGE THE USE OF SUCH FACILITIES FOR US-SUPPLIED OR DERIVED MATERIAL.

(C) MODIFY THE STARTING POINT FOR THE 20 YEAR PERIOD, DURING WHICH THERE WOULD BE A PRESUMPTION THAT ANY SENSITIVE PLANT OF THE SAME TYPE WOULD BE BASED ON FRG TECHNOLOGY AND THUS SUBJECT TO PERMANENT AGENCY SAFEGUARDS TO COMMENCE ON THE DATE OF INITIAL OPERATION OF SUCH A FACILITY IN IRAN, RATHER THAN THE DATE OF INITIAL TRANSFER OF SENSITIVE TECHNOLOGY. THIS WOULD BRING THE FRG DRAFT INTO CONFORMANCE WITH SPECIFICATIONS IN THE TRIGGER LIST ASSOCIATED WITH THE NUCLEAR SUPPLIER' GUIDELINES.

7. THE PROPOSED DRAFT LETTERS AND PROVISIONS OF THE FRG-IRAN AGREEMENT CONTAIN OTHER ELEMENTS WHICH ARE GENERALLY COMPATIBLE WITH THE APPROACH WE ARE PURSUING IN OUR BILATERAL DISCUSSIONS WITH THE GOI. WE SPECIFICALLY ENDORSE (A) THE PROVISIONS DEALING WITH THE CONTINUING APPLICATION OF IAEA SAFEGUARDS TO FRG-SUPPLIED ITEMS IN THE EVENT IRAN WITHDRAWS FROM THE NPT, AS WELL AS (B) THE REQUIREMENTS FOR FRG APPROVAL OF ANY RETRANSFERS OF SENSITIVE MATERIALS, EQUIPMENT, AND TECHNOLOGY.
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8. AS YOU KNOW, THE IRANIANS HAVE EXPRESSED AN UNDERSTANDABLE CONCERN THAT THEY NOT BE SUBJECT TO WIDELY VARYING PHYSICAL PROTECTION REQUIREMENTS OF VARIOUS SUPPLIERS. THEREFORE, WE WOULD SUGGEST THAT THE US AND FRG STAY IN CLOSE CONTACT OVER THE FORMULATIONS OF PHYSICAL PROTECTION PROVISIONS TO BE INCLUDED IN OUR RESPECTIVE NUCLEAR AGREEMENTS WITH IRAN. THESE PROVISIONS SHOULD BE COMPATIBLE IN SETTING THE CRITERIA FOR LEVELS OF PROTECTION AND IN ASSESSING THE EFFECTIVENESS OF MEASURES INTRODUCED BY IRAN TO MEET THE DESIGNATED LEVELS. WE WOULD ALSO BE INTERESTED IN THE MANNER IN WHICH THE FRG PLANS TO EXPRESS AN AGREEMENT WITH IRAN ON PHYSICAL PROTECTION QUESTIONS, SPECIFICALLY WHETHER THIS WOULD BE A SEPARATE BILATERAL ARRANGEMENT OR A PROVISION TO BE INCORPORATED DIRECTLY OR THROUGH AN ASSOCIATED LETTER INTO THE OVERALL NUCLEAR COOPERATION AGREEMENT BETWEEN THE FRG AND THE GOI. FURTHERMORE, PARAGRAPH 5 OF ARTICLE 7 WOULD APPEAR TO REQUIRE SOME MODIFICATION TO INCLUDE A REQUIREMENT FOR ASSURANCES ON PHYSICAL PROTECTION, AS WELL AS SAFEGUARDS MEASURES, BY A THIRD COUNTRY TO WHICH RETRANSFERS MAY BE MADE, CONSISTENT WITH PARAGRAPH 10 OF THE SUPPLIERS GUIDELINES. WE ASSUME THAT THE PROVISION OF ARTICLE 7, PARAGRAPH 3, IS INTENDED TO INSURE COMPLIANCE WITH THE NUCLEAR EXPLOSIVES PROSCRIPTION REQUIRED BY PARAGRAPH 10 OF THE LONDON GUIDELINES.

9. THE US WOULD ALSO SUGGEST THAT THE FRG CONSIDER HOW BEST TO CONVEY PUBLICLY THE CONTEXT OF THE PROPOSED AGREEMENT, SEEKING PARTICULARLY TO AVOID PERCEPTIONS THAT ASSISTANCE IN SENSITIVE FUEL CYCLE TECHNOLOGIES MIGHT BE PROVIDED BY THE FRG TO IRAN IN THE NEAR TERM.
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